

Securities and Exchange Commission

§ 270.17f-7

(5) *U.S. or Foreign Bank* means a bank, as defined in section 2(a)(5) of the Act (15 U.S.C. 80a-2(a)(5)), or a banking institution or trust company that is incorporated or organized under the laws of a country other than the United States and that is regulated as such by the country's government or an agency thereof.

[61 FR 66212, Dec. 17, 1996]

§ 270.17f-7 Custody of investment company assets with a foreign securities depository.

(a) *Custody arrangement with an eligible securities depository.* A Fund, including a Registered Canadian Fund, may place and maintain its Foreign Assets with an Eligible Securities Depository, provided that:

(1) *Risk-limiting safeguards.* The custody arrangement provides reasonable safeguards against the custody risks associated with maintaining assets with the Eligible Securities Depository, including:

(i) *Risk analysis and monitoring.* (A) The fund or its investment adviser has received from the Primary Custodian (or its agent) an analysis of the custody risks associated with maintaining assets with the Eligible Securities Depository; and

(B) The contract between the Fund and the Primary Custodian requires the Primary Custodian (or its agent) to monitor the custody risks associated with maintaining assets with the Eligible Securities Depository on a continuing basis, and promptly notify the Fund or its investment adviser of any material change in these risks.

(ii) *Exercise of care.* The contract between the Fund and the Primary Custodian states that the Primary Custodian will agree to exercise reasonable care, prudence, and diligence in performing the requirements of paragraphs (a)(1)(i)(A) and (B) of this section, or adhere to a higher standard of care.

(2) *Withdrawal of assets from eligible securities depository.* If a custody arrangement with an Eligible Securities Depository no longer meets the requirements of this section, the Fund's Foreign Assets must be withdrawn from the depository as soon as reasonably practicable.

(b) *Definitions.* The terms *Foreign Assets*, *Fund*, *Qualified Foreign Bank*, *Registered Canadian Fund*, and *U.S. Bank* have the same meanings as in § 270.17f-5. In addition:

(1) *Eligible Securities Depository* means a system for the central handling of securities as defined in § 270.17f-4 that:

(i) Acts as or operates a system for the central handling of securities or equivalent book-entries in the country where it is incorporated, or a transnational system for the central handling of securities or equivalent book-entries;

(ii) Is regulated by a foreign financial regulatory authority as defined under section 2(a)(50) of the Act (15 U.S.C. 80a-2(a)(50));

(iii) Holds assets for the custodian that participates in the system on behalf of the Fund under safekeeping conditions no less favorable than the conditions that apply to other participants;

(iv) Maintains records that identify the assets of each participant and segregate the system's own assets from the assets of participants;

(v) Provides periodic reports to its participants with respect to its safekeeping of assets, including notices of transfers to or from any participant's account; and

(vi) Is subject to periodic examination by regulatory authorities or independent accountants.

(2) *Primary Custodian* means a U.S. Bank or Qualified Foreign Bank that contracts directly with a Fund to provide custodial services related to maintaining the Fund's assets outside the United States.

NOTE TO § 270.17f-7: When a Fund's (or its custodian's) custody arrangement with an Eligible Securities Depository involves one or more Eligible Foreign Custodians (as defined in § 270.17f-5) through which assets are maintained with the Eligible Securities Depository, § 270.17f-5 will govern the Fund's (or its custodian's) use of each Eligible Foreign Custodian, while § 270.17f-7 will govern an Eligible Foreign Custodian's use of the Eligible Securities Depository.

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